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JS-6

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
for and on behalf of its agency, THE
SMALL BUSINESS
ADMINISTRATION

Plaintiff,

v.

JAMES J. SHIH, an individual;
SIVASH ESFANDI, an individual,
Defendants.

EDCV 16-30 VAP (DTBx)

~~[PROPOSED]~~ CONSENT JUDGMENT

1 The Court, having reviewed the Stipulation for Entry of Consent Judgment,
2 by and between, Plaintiff United States of America, and Defendants James Shih
3 and Sivash Esfandi (collectively “Defendants”), and good cause existing therefor,

4 IT IS HEREBY ORDERED ADJUDICATED AND DECREED:

5 1. This Court has subject matter jurisdiction over this civil action, and
6 personal jurisdiction over Defendants, who waive any and all objections to the
7 Court’s jurisdiction.

8 2. Defendants admit to all factual allegations set forth in the Complaint.

9 3. Defendants jointly and severally owe Plaintiff the sum of
10 \$853,712.53, consisting of \$602,036.63 in principal, \$44, 917.39 in accrued
11 interest, and \$206,758.50 for fees and penalties.

12 4. Payment Provision: Beginning on or before September 1, 2016,
13 Defendants shall make payments toward the balance of \$853,712.53 in monthly
14 installments, paid on or by the first day of every month, according to the following
15 schedule:

16 A. \$1,500/month until September 1, 2018;

17 B. \$2,000/month until September 1, 2022;

18 C. \$3,000/month until September 1, 2026; and

19 D. \$4,000/month until September 1, 2033, or until satisfaction of
20 the principal balance of \$602,036.64.

21 Defendants shall make payments at <https://www.pay.gov> to the U.S. Department of
22 Justice account, in accordance with instructions provided to Defendants by the
23 Financial Litigation Section of the United States Attorney’s Office for the Central
24 District of California. Defendants shall make payments on the first day of every
25 month. A payment is considered delinquent if it is more than fifteen (15) days late.

26 5. Default Provision: If Defendants’ monthly payments are delinquent
27 on three or more months in any consecutive, twelve-month period, Plaintiff may, in
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1 its sole discretion and without the obligation to seek authorization from the Court,
2 take any or all of the following actions:

- 3 a. initiate enforcement action(s) against Defendants to collect
4 payments on this judgment, and/or
- 5 b. reinstate any and all interest, fees and/or penalties waived prior
6 to the very first delinquent payment commencing from the
7 September 1, 2016 payment.

8 6. Defendants waive any judicial challenge to the Plaintiff's decision to
9 act under the Default Provisions except Defendants will retain the right to make a
10 judicial challenge based solely upon evidence that Defendants were not delinquent
11 on three or more months in any consecutive twelve-month period. Defendants will
12 provide written notice, with documentary evidence and a declaration from either
13 Defendant, evidencing the fact that Defendants were not delinquent on three or
14 more months in any consecutive twelve-month period to the United States at least
15 five (5) court days prior to filing any judicial challenge.

16 7. Plaintiff will record abstracts of this judgment against Defendants.
17 Plaintiff agrees to take no additional action to enforce this judgment, unless
18 Defendants are delinquent on three or more months in any twelve-month period.
19 Plaintiff will agree to a limited subordination of its judgment lien in connection
20 with reasonable request by Defendants, but only after Defendants provide Plaintiff
21 with information and documents related to the request, including without
22 limitation, Defendants' financial statements and evidence that any contemplated
23 transaction affected by the judgment lien is a bona fide, arms-length transaction.
24 Plaintiff will not agree to subordinate its judgment lien if Defendants have made
25 three or more delinquent payments in any twelve-month period.

26 8. Defendants will not be subject to any prepayment penalties.

27 9. If Defendants remain current with the payment schedule as set forth in
28 paragraph 4, with no delinquencies, Plaintiff will deduct the sum of \$14,000 from

1 the balance of accrued interest, fees and penalties on an annual basis as follows:
2 Deductions will commence on September 1, 2017, and do not apply to the
3 principal balance. If Defendants pay the full principal balance of \$602,036.64 at
4 any time before September 1, 2033, Plaintiff will waive any remaining interest,
5 fees and/or penalties.

6 9. Each Defendant shall provide Plaintiff with a current financial
7 statement and tax returns beginning on October 30, 2017, and on October 30th of
8 each year thereafter. Each Defendant shall also provide Plaintiff with written
9 notification of any material change to his financial condition, employment,
10 residence, or telephone number within ten (10) days of such change.

11 10. If either Defendant commences any case, proceeding, or other action
12 under any law relating to bankruptcy or for relief from debts, Defendant will not
13 argue, contend or otherwise take the position that Defendants' obligations under
14 the stipulated consent judgment may or should be avoided. Additionally,
15 Defendants will not challenge, in such proceeding, the Plaintiff's right to file a
16 proof of claim which includes not only the principal balance due and owing at the
17 time of the filing of such case, proceeding or other action, but also includes any
18 pre-judgment accrued interest, fees and penalties, inclusive of all amounts
19 deducted pursuant to paragraph 9 above, as well as any post-judgment accruals of
20 interest, fees and penalties.

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1 11. Each party will bear its own legal and other costs incurred in
2 connection with this matter.

3 Dated: August 25, 2016

Virginia A. Phillips

4 CHIEF U.S. DISTRICT JUDGE
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